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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,022	02/26/2004	Liam Ward	12013/49901	2910
23838	7590	10/16/2006.	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			SWEET, THOMAS	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/786,022	WARD, LIAM	
	Examiner Thomas J. Sweet	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 August 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6,9-13 and 21 is/are pending in the application.

4a) Of the above claim(s) 21 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6 and 9-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claim 1, 4, 6 and 11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Election/Restrictions***

Newly submitted claim 21 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a “self-expanding stent” does not utilize a “device adapted to expand the stents” but merely a release device.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 21 has been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 recites the limitation "assembly of claim 8" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 8 has been cancel. It appear that the antecedent basis for the “assembly” should be from claim 6.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Yip et al (US 7,105,018). Yip et al discloses a stent (fig 4C) comprising: a first stent member having a patterned structure (fig. 4A); and a second stent member having a patterned structure (fig. 4B); a delivery device adapted to expand the stents simultaneously (fig 2) wherein the first stent member is located inside of the second stent member (as seen in fig. 4C) and is affixed to the second stent member (col 13, lines 61-62); and wherein at least one of the first stent member and the second stent member has a coating on it (Col 13-14, line 54-9, therapeutic).

With regard to claim 5, the patterned structure of the first stent member is different from the patterned structure of the second stent member (as seen in fig. 4C).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, 9, 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yip et al in view of Khosravi et al. Yip et al. discloses a stent assembly as discussed above. However, Yip et al does not disclose a coating on the inside stent. Khosravi et al discloses another stent assembly including an inside coating on a stent for the purpose of treating the thrombosis with heparin. It would have been obvious to one of ordinary skill in the art at the time the invention was made to coat the inside of the stent assembly including the inside stent of Yip et al with a heparin coating as taught by Khosravi et al in order to treat thrombosis.

With regard to claim 12, the patterned structure of the first stent member is different from the patterned structure of the second stent member (as seen in fig. 4C).

With regard to claim 13, the first stent (at some point through the expansion) has a different length from the second stent (since the second stent is fabricated to lengthen to overcome strain, col 5 lines 28-32).

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yip et al in view of Khosravi et al of as applied to claim 6 above, and further in view of Ding (US 6,249,952). Yip et al as modified discloses a stent assembly as discussed above. However, Yip et al remains silent as to the patterned structure inside stent being the same as the outside stent. It is well known in the art of stents to have a mesh structure for the purpose of supporting a vessel wall as demonstrated by Ding (fig. 1, abs). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a mesh stent such as taught by Ding for the inside stent of Yip et al as an alternative vessel support. Such a modification amounts to mere

substitution of one functionally equivalent stent for another with in the art of stents. Additionally, a mesh stent can be characterized as having generally the same pattern as the outside stent.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hunter et al. (US 6,544,544) and Igaki et al. (US RE38,653).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

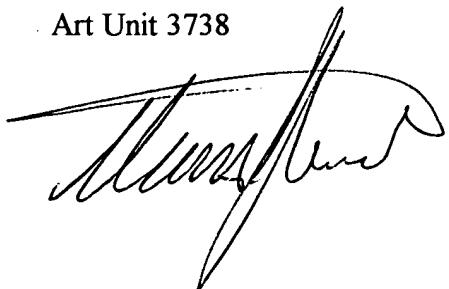
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Thomas J Sweet

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Examiner  
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A handwritten signature in black ink, appearing to read "Henry J. Lee", is positioned above the examiner's name.